IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No.67440-M of 2006

DATE OF DECISION: DECEMBER 12, 2006

Sukhchain Singh

...PETITIONER

VERSUS

State of Punjab

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. S.P.S.Sidhu, Advocate,
for the petitioner.
Mr.N.S.Gill, AAG, Punjab.

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Petitioner Sukhchain Singh has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.101 dated 8.5.2006 registered under Sections 302/307/326/323/324/148/149 IPC and Sections 25/27/54/59 of the Arms Act at Police Station Sadar Abohar, District Ferozepur.

I have heard the counsel for the parties and gone through the contents of the FIR.

In this case, the complainant and the main accused are real brothers. Two brothers, namely, Baljit Singh and Jagjit Singh are on one side, whereas the remaining three brothers, namely, Amrik Singh, Gurdip Singh and Joginder Singh are on other side. The dispute between them is about possession of one acre of land bearing Killa No.18 of Moraba No.113. The complainant side is claiming possession of the said land in mutual partition. In this case, one person, Vir Singh is stated to have been murdered.

Counsel for the petitioner contends that as per the version given in the FIR, the complainant party gathered at the spot with several outsiders and were armed with deadly weapons like rifles etc. Counsel further contends that the complainant party was not in possession of the disputed land. The khasra girdawari of the said land was in the name of Baljit Singh,

uncle of the petitioner and a Civil Court has also granted injunction against Amrik Singh and Joginder Singh, the complainant party, restraining them from interfering in the said Killa number. Counsel contends that the occurrence took place when the complainant side tried to cultivate the land forcibly, therefore, the complainant side was the aggressor party. As per the allegations in the FIR, petitioner Sukhchain Singh was armed with sword and he gave a sword blow on the hand of a witness, namely, Shiata Singh. It has been further alleged that he snatched a rifle from Vir Singh and fired two shots from the said rifle after the occurrence, and admittedly those fired shots did not hit anybody. He further contends that the petitioner did not cause any injury to the deceased. He only stated to have caused injuries to a witness, that too, on the hand, which is simple in nature. Counsel contends that the petitioner is in custody since 15.5.2006 and in this case the prosecution has to examine 25 witnesses. Till date, no witness has been examined and trial will take a long time.

On the other hand, counsel for the respondent-State submitted that the petitioner has participated in the occurrence and he was the member of the unlawful assembly, though it has not been disputed that except the injuries caused to a witness, the petitioner did not cause any injury to the deceased. The main accused, who caused the death of Vir Singh, is in custody. Counsel for the respondent-State has not disputed that in the revenue record, the possession of the disputed Killa number is recorded in the name of Baljit Singh, i.e., the accused side and the Civil Court has also granted injunction in his favour.

Keeping in view the aforesaid facts, without expressing any opinion on the merits of the case, I deem it appropriate to grant regular bail to the petitioner, and he is accordingly ordered to be released on bail to the satisfaction of the trial Court.

December 12, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE